



United States Government Accountability Office  
Washington, DC 20548

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B-324334

January 30, 2013

The Honorable Jay Rockefeller  
Chairman  
The Honorable  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Bill Shuster  
Chairman  
The Honorable Nick J. Rahall II  
Ranking Member  
Committee on Transportation and Infrastructure  
House of Representatives

Subject: *Department of Transportation, Federal Transit Administration: Major Capital Investment Projects*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Transportation, Federal Transit Administration (FTA), entitled “Major Capital Investment Projects” (RIN: 2132-AB02). We received the rule on January 16, 2013. It was published in the *Federal Register* as a final rule on January 9, 2013, with a stated effective date of April 9, 2013. 78 Fed. Reg. 1992.

The final rule sets a new regulatory framework for FTA’s evaluation and rating of major transit capital investments seeking funding under the discretionary “New Starts” and “Small Starts” programs. The New Starts and Small Starts programs are FTA’s primary capital funding programs for new or extended fixed guideway and corridor-based bus systems across the country, including rapid rail, light rail, commuter rail, bus rapid transit, and ferries.

Enclosed is our assessment of FTA’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that FTA complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer  
Managing Associate General Counsel

Enclosure

cc: Holly Vandervort  
Paralegal Specialist  
Federal Transit Administration  
Department of Transportation

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF TRANSPORTATION,  
FEDERAL TRANSIT ADMINISTRATION  
ENTITLED  
"MAJOR CAPITAL INVESTMENT PROJECTS"  
(RIN: 2132-AB02)

(i) Cost-benefit analysis

FTA analyzed the costs and benefits of this final rule. FTA estimates that the monetized costs of this rule to be \$0.6 million at both the 3 percent and 7 percent discount rates. FTA estimates the benefits of this rule to be \$3.7 million at a 3 percent discount rate and \$3.2 million at a 7 percent discount rate resulting in a positive net impact for the rule of \$3.1 million at a 3 percent discount rate and \$2.6 million at a 7 percent discount rate. FTA also estimates that the changes in transfer payments under this rule will be \$2.2 billion under a 3 percent discount rate and \$1.8 billion under a 7 percent discount rate. FTA recognized that additional benefits could arise due to the potential for accelerated project delivery resulting from process streamlining and simplified forecasting techniques.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

FTA determined that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

FTA determined that this final rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, of \$100 million or more in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On June 3, 2010, FTA published an Advance Notice of Proposed Rulemaking that included a series of questions about the current regulation and three of the criteria used to assess project justification. 75 Fed. Reg. 31,383. On January 25, 2012, FTA published a Notice of Proposed Rulemaking. 77 Fed. Reg. 3848. FTA received approximately 103 comment submissions from organizations and

individuals that included approximately 1,000 individual comments. FTA responded to the comments in this final rule.

#### Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

FTA has been collecting project evaluation information from project sponsors under the existing Office of Management and Budget (OMB) approval for the information collection instrument entitled “49 CFR Part 611 Major Capital Investment Projects” (OMB Number 2132-0561). FTA estimates that this rule will reduce annual paperwork burden hours by 5,650 hours and reduce paperwork costs by \$423,750.

#### Statutory authorization for the rule

FTA promulgated this final rule under the authority of sections 5309(g)(6) and 5334(a)(11) of title 49, United States Code.

#### National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321–4347

FTA determined that this final rule will not have any potentially significant effect on the quality of the environment.

#### Executive Order No. 12,866 (Regulatory Planning and Review)

FTA determined that this final rule is economically significant under the Order.

#### Executive Order No. 13,132 (Federalism)

FTA determined that this final rule will not have substantial direct effects on the states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government.